

FILM PRODUCTION (TAX INCENTIVES) BILL 2017

SAMOA

Explanatory Memorandum

1.0 Object and reasons:

1.1 The Bill seeks to provide for a standard legislation to legislate matters and incentives or privileges that will be granted to any overseas company that wishes to film any production such as television series, film or movie in Samoa.

1.2 The objects of the Bill are:

- (a) to authorise the payment of a prescribed cash rebate;
- (b) to provide for tax and duty incentives;
- (c) to provide for reporting and accounting provisions; and
- (d) to provide for regulations making power provisions, in relation to any production made in Samoa.

Clauses:

PART 1 - PRELIMINARY

Clause 1: - provides for the short title and commencement.

Clause 2: - provides for the definitions of terms used in the Bill.

Clause 3: - binds the Government.

PART 2 - REBATE, TAX AND DUTY INCENTIVES

Clause 4: - empowers the Minister (with approval of Cabinet) to authorise payment to the local/overseas company a prescribed amount of the cash rebate of the qualifying Samoan production expenditure.

Clause 5: - exempts foreign employees or any person contracted from outside Samoa from being taxed under the laws of Samoa. This exemption does not apply to a resident person employed or contracted by the local/overseas company.

Clause 6: - exempts foreign employees or contracted foreign employees from fees for work and immigration permits. It also provides for the duty of the overseas company to provide written notification to the Minister responsible for labour and employment and the immigration for providing the required details as listed.

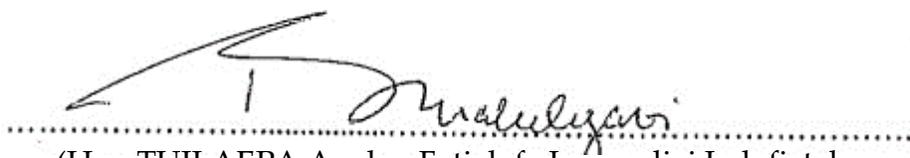
Clause 7: - exempts the local/overseas company from paying customs duty on imported goods.

Clause 8: - restricts the local/overseas company from selling or giving away any imported goods unless a written approval is given by the Chief Executive Officer.

Clause 9: - duty of the local company to submit an expenditure report to the Chief Executive Officer (CEO). It also provides for the duty of the CEO to audit and prepare an audit report to show whether the Bill has been complied with.

PART 3 - MISCELLANEOUS

- Clause 10:** - empowers the Head of State to make regulations on the advice of Cabinet to give effect to the provisions of the Bill.
- Clause 11:** - provides for consequential amendment to the Income Tax Act 2012 in order to legally recognise the exemption provided under clause 5 of the Bill to exempt foreign employees and contracted foreign employees employed by the local/overseas company.

A handwritten signature in black ink, appearing to read 'Sailele Malielegaoi', is written over a horizontal dotted line.

(Hon TUILAEPA Auelua Fatialofa Lupesoliai Lolofietele
Neioti Aiono Galumalemana Dr. Sailele Malielegaoi)

ACTING MINISTER FOR REVENUE

FILM PRODUCTION (TAX INCENTIVES) BILL 2017

SAMOA

Arrangement of Provisions

PART 1

PRELIMINARY

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2. Interpretation
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REBATE, TAX AND DUTY INCENTIVES

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6. Exemption on fees for work and immigration permits
7. Customs duty exemption
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9. Reports and accounts

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MISCELLANEOUS**

10. Regulations
11. Consequential amendment

2017, No.

A BILL INTITULED

AN ACT to authorise cash rebate and tax incentives to be granted to overseas company in relation to the production and filming of any television series, movies or films in Samoa, and for related purposes.

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

**PART 1
PRELIMINARY**

1. Short title and commencement:

- (1) This Act may be cited as the Film Production (Tax Incentives) Act 2017.
(2) This Act commences on the date of assent.

2. Interpretation:

In this Act, unless the contrary intention appears:

“Chief Executive Officer” means the Chief Executive Officer of the Ministry responsible for revenue and custom services;

“income tax” has the meaning in the Income Tax Act 2012;

“local company” means the subsidiary company of the overseas company incorporated in Samoa under the Companies Act 2001 and as specified under regulations;

“Minister” means the Minister responsible for revenue and custom services;

“overseas company” means the company (incorporated under the law of another country) which is responsible for the production in Samoa and as further specified under regulations;

“production” means the production in Samoa of any television series, movies or films;

“qualifying Samoan production expenditure” or “QSPE” means the local company or overseas company’s production expenditure on the production that is incurred for, or is reasonably attributable to:

- (a) land in Samoa used as the location for the production;
- (b) goods or services that are made and located in Samoa used for the production; and
- (c) prescribed foreign or non-Samoan goods or services that are incurred during the production period whilst in Samoa.

“resident person” has the meaning in the Income Tax Act 2012.

3. Act binds the Government:

This Act binds the Government.

PART 2
REBATE, TAX AND DUTY INCENTIVES

4. Cash rebate:

- (1) The Minister, with approval of Cabinet may authorise the payment to the local company or the overseas company a prescribed amount of the cash rebate of the QSPE.
- (2) The process of paying cash rebate is to be prescribed by regulations.

5. Income tax exemption:

- (1) The following persons are exempt from liability for income tax under the laws of Samoa on any income earned in Samoa:
 - (a) a foreign employee of the overseas company;
 - (b) a person contracted from outside Samoa to the overseas company, including any show host, contestant or executive; and
 - (c) any other prescribed persons for the purpose of this Act.
- (2) Subsection (1) does not apply to a resident person employed or contracted by the local company or the overseas company.

6. Exemption on fees for work and immigration permits:

- (1) The Minister responsible for labour and employment relations may exempt fees payable by the overseas company, or local company under section 79 of the Labour and Employment Relations Act 2013 for the application or issue of work permits.

- (2) The Minister responsible for immigration may exempt fees payable by the overseas company or local company under section 48 of the Immigration Act 2004 in regard to the application of issuing of temporary resident visas.
- (3) The overseas company must in writing and as soon as possible:
 - (a) notify the Minister responsible for labour and employment relations of the following details of its overseas employees and persons engaged from overseas by it -
 - (i) full name;
 - (ii) nationality;
 - (iii) passport details;
 - (iv) other prescribed information.
 - (b) notify the Ministry responsible for immigration of the following details of its overseas employees and persons engaged from overseas by it -
 - (i) full name;
 - (ii) nationality;
 - (iii) passport details;
 - (iv) other prescribed information.
- (4) This section applies without limiting the Labour and Employment Relations Act 2013 or the Immigration Act 2004.

7. Customs duty exemption:

The overseas company and the local company are exempted from customs duty under the Customs Act 2014 for imported goods as prescribed.

8. Restriction on the sale or gift of imported goods:

Any imported goods of the overseas company or the local company must not be sold or given away free, except with prior written approval of the Chief Executive Officer if:

- (a) the goods are given away for a charitable purpose; or
- (b) customs duty, as determined by the Chief Executive Officer, is paid on the value of the goods.

9. Reports and accounts:

- (1) The local company must, at the end of every two (2) weeks after the commencement of the production, submit to the Chief Executive Officer an expenditure report (the "report").
- (2) The Chief Executive Officer must:
 - (a) audit the report; and
 - (b) prepare an audit report based on the report to show whether or not this Act has been complied with.
- (3) The local company must:
 - (a) answer all questions asked by the Chief Executive Officer relevant to the report and accounts; and
 - (b) produce any other further document or information, if requested by the Chief Executive Officer.

PART 3

MISCELLANEOUS

10. Regulations:

The Head of State may, acting on the advice of Cabinet, make regulations to give effect to or for the purpose of this Act, and in particular may make the following regulations:

- (a) to provide for any specific terms and conditions as agreed between the Government and the overseas company;

- (b) to regulate each production, including the operation of local company or overseas company for that production;
- (c) to provide for matters that are required to be prescribed under this Act.

11. Consequential amendment:

In subclause (1) of Part A of Schedule 2 of the Income Tax Act 2012, at the end of paragraph (ze) substitute the full stop with a semi colon, and after that paragraph insert:

- “(zf) a person exempted under section 5 of the Film Production (Tax Incentives) Act 2017.”.
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